

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION

CHARLIE TAYLOR

VS.

CIVIL ACTION NO. 2:05cv381-KS-MTP

JOHN BERRY, ET AL

ORDER ACCEPTING MAGISTRATE JUDGE'S  
RECOMMENDATION AND DENYING MOTION FOR SUMMARY JUDGMENT

This cause is before the Court on Motion for Summary Judgment [120] filed by Charlie Taylor, Report and Recommendation [218] of United States Judge Michael T. Parker and Objection thereto filed by Charlie Taylor and the Court considering same and also considering the Report and Recommendation and applicable authorities and being fully advised in the premises, finds that the Report and Recommendation of Magistrate Judge Michael T. Parker should be adopted by this Court for the following reasons.

**1. The Motion.**

Charlie Taylor ("Taylor") filed a Motion for Summary Judgment pursuant to Rule 56(c) and 50(a)(2) of the Federal Rules of Civil Procedure. In the motion Taylor relates different problems regarding receipt of copies, mail, and other issues regarding dealings with prison officials. As noted by the Magistrate Judge, these issues have been addressed extensively by prior orders of the Magistrate Judge and by this Court, and by this time it is clear to this Court that Taylor is being granted significant access to this Court, and it has become apparent that he is sending and receiving mail.

Rule 56 is appropriate only where there is no genuine issue of any material fact and

Taylor is entitled to judgment as a matter of law. Taylor's motion does not survive this test.

There are numerous conclusory and, even incorrect, assertions asserted in his motion, but there is no proof submitted regarding allegations that would entitle Taylor to a judgment as a matter of law.

Additionally, Rule 50(a)(2) is a rule that applies during jury trials. The jury has not even been empaneled in this case and this allegation by Taylor is without any merit whatsoever.

For the foregoing reasons and more specifically for the reasons set forth in the Report and Recommendation by the Magistrate Judge, this Court finds that the Report and Recommendation filed October 29, 2007, should be accepted pursuant to 28 U.S.C. § 636(b)(1) and that Charlie Taylor's Motion for Summary Judgment [120] be and the same should be **overruled**.

SO ORDERED this, the 10<sup>th</sup> day of December, 2007.

*s/Keith Starrett*  
UNITED STATES DISTRICT JUDGE